

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

BILLY GENE GRAY,)	
)	
Petitioner,)	
vs.)	NO. CIV-19-0100-HE
)	
JOE M. ALLBAUGH, Director,)	
)	
Respondent.)	

ORDER

Petitioner Billy Gene Gray, a state prisoner appearing *pro se*, brought this action pursuant to 28 U.S.C. § 2254, challenging his convictions on drug related charges entered in the District Court of Garvin County, Case No. CF-2013-347. On April 8, 2019, U.S. Magistrate Judge Gary M. Purcell issued a Report and Recommendation recommending petitioner's Petition for a Writ of Habeas Corpus be dismissed as untimely. Specifically, the Magistrate Judge found that even applying statutory tolling to the one-year limitations period, petitioner's § 2254 petition is not timely filed. Additionally, the Magistrate Judge found that petitioner has not shown extraordinary circumstances warranting the application of equitable tolling principles to extend the limitations period. Petitioner was advised of his right to object to the Report and Recommendation, and he has filed a timely objection.

In his objection, petitioner does not dispute that the one-year limitations period began to run on March 17, 2017. Further, petitioner acknowledges that the statute of limitations was tolled during the time he sought post-conviction relief in state court and appears to believe said tolling makes his § 2254 petition timely filed. However, as set forth in the Report and Recommendation, the limitations period was only tolled from December

14, 2017 to March 10, 2018 and thus expired on June 11, 2018. As petitioner did not file his § 2254 petition until January 29, 2019, the court concludes the petition is untimely. Additionally, in his objection, petitioner does not set forth any extraordinary circumstances that would warrant the application of equitable tolling principles to extend the limitations period.

Accordingly, the Court **ADOPTS** the Report and Recommendation [Doc. #15] and **DISMISSES** the Petition for a Writ of Habeas Corpus as untimely.

IT IS SO ORDERED.

Dated this 23rd day of April, 2019.



JOE HEATON
CHIEF U.S. DISTRICT JUDGE